

COURT OF APPEAL

CANADA
PROVINCE OF QUEBEC
REGISTRY OF MONTREAL

No.: 500-09-029018-207
(500-06-000942-181)

DATE: January 21, 2022

**CORAM: THE HONOURABLE GENEVIÈVE MARCOTTE, J.A.
GENEVIÈVE COTNAM, J.A.
STEPHANE SANSFAÇON, J.A.**

MICHAEL CARRIER
APPELLANT/INCIDENTAL RESPONDENT – Applicant
v.

ATTORNEY GENERAL OF QUÉBEC
RESPONDENT/INCIDENTAL APPELLANT – Respondent

CORRECTED JUDGMENT

[1] Further to appellant counsel's letter dated January 13, 2022, the Court acknowledges that there is an error in writing¹ in paragraphs 8, 10, 12, 16 and 18 b) and d) of the judgment rendered on January 10, 2022.

[2] The expression "pecuniary damages" used in paragraphs 8, 10, 12 and 16 as well as in the conclusions found at paragraphs 18 b) and d) of the judgment rendered on January 10, 2022 should be replaced with the word "damages".

¹ *Code of Civil Procedure*, art. 338.

FOR THESE REASONS, THE COURT:

[3] **CORRECTS** the judgment rendered on January 10, 2022;

[4] **REPLACES** the expression “pecuniary damages” used in paragraphs 8, 10, 12 and 16 as well as in the conclusions found at paragraphs 18 b) and d) of the judgment with the word “damages”, as follows:

[8] The appellant is asking for compensation for those *Charter* violations in the form of damages evaluated at \$10,000 per day of “illegal” custody and punitive damages in the amount of \$50,000.

[10] However, he denied the claim with regard to the damages, being of the opinion that it constituted a collateral attack of the remand orders issued, which could not be allowed for the following reasons:

[...]

[12] The judge committed a reviewable error by dismissing the claim for damages at this stage. This error seems to stem from a misunderstanding of the method suggested by the appellant for estimating these damages at \$10,000 per day of “illegal detention”. The judge considered that the reference to the illegality of the detention would require that the judge seized of the merits of the case reconsider the legality of the remand orders which led to the members of the class being held in custody. The judge was of the view that the appellant could not argue the illegality of the detention without having first sought to reverse the remand orders “by filing an appeal or otherwise”.

[16] Considering the facts alleged in the procedure, the authorization judge committed a reviewable error by granting the application for authorization with respect to punitive damages only, while dismissing the claim for damages at this stage. For these reasons, the application for authorization should be granted for all heads of damages claimed.

[18] **MODIFIES** the judgment under appeal, such that its conclusions read as follows:

[...]

b) If so, are class members entitled to damages as a just and appropriate remedy in accordance with section 24 (1) of the *Canadian Charter of Rights and Freedoms*?

[...]

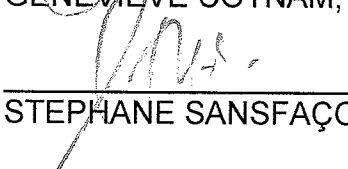
d) If so, are class members entitled to damages as a just and appropriate remedy in accordance with section 49 para. 1 of the *Charter of Human Rights and Freedoms*?



GENEVIEVE MARCOTTE, J.A.



GENEVIEVE COTNAM, J.A.



STEPHANE SANSFAÇON, J.A.

Mtre Robert Kugler
Mtre Alexandre Brosseau-Wery
KUGLER, KANDESTIN
For the appellant / incidental respondent

Mtre Émilie Fay-Carlos
Mtre Gabriel Lavigne
BERNARD, ROY (JUSTICE-QUÉBEC)
For the respondent / incidental appellant

Date of hearing: October 20, 2021